

Talking points: Project Labor Agreements (John Canzano)

- Hello, I'm John Canzano, attorney for the Michigan Building and Construction Trades Council.
- Our organization represents more than 100,000 skilled and trained construction workers in Michigan.
- We are all committed to working with Governor Snyder, leaders from both political parties and businesses to grow a more prosperous Michigan.
- I'm here today to express the Michigan Building Trades' opposition to House Bill 4287, which would ban Project Labor Agreements, or PLAs.
- At the same time, I hope to help clear up misconceptions that are out there and give you the facts about PLAs.
- First, let me tell you what PLAs *are*.
- PLAs are partnership agreements that establish the terms and conditions of employment on construction projects.
- *PLAs are completely voluntary.* They are only used when a construction owner, whether in the private or public sector, makes a business decision that using a PLA is in its best interest for a particular project.

- PLAs provide a *business tool* for construction owners that standardizes work rules, hours, employee training, drug testing and other factors, giving the construction owner more control of scheduling, staffing and overall management.
- The end result is increased productivity, more predictability, and a better return on investment for the contractor and the client.
- By working out the details in advance, and by providing enforceable private dispute resolution mechanisms, PLAs also prevent labor disruptions for the duration of the project.
- These are some of the reasons why PLAs have been successfully employed in both the private and public sector here in Michigan and around the country for decades.
- For example, the Big Three automakers, DTE Energy and Consumers Energy use PLAs on their projects. Toyota uses PLAs whenever they build in the United States. Comerica Park, Ford Field, and many projects on the U of M and MSU campuses were built using PLAs, to name just a few.
- In short, PLAs are what the pros in the construction industry insist on when they have demanding projects that need to come in on time, with the highest quality of workmanship, and with no room for surprises or work that needs to be done over.

- Some contractors oppose PLAs for public-private partnerships because they don't want to be held fully accountable to performance benchmarks.
- As a result, the special interest groups that represent these contractors want to pass a law banning the use of PLAs in Michigan.
- House Bill 4287 would forbid public entities from using PLAs, thus robbing units of government of a critical tool that allows taxpayers to hold contractors accountable.
- PLAs are not right for every project, but this bill would flatly prohibit them on all public projects. It takes away the freedom and flexibility that public construction owners need and have always had. That is simply bad public policy.
- Now let me tell you what PLAs *aren't*.
- Let me be frank: Opponents of PLAs are purposefully misleading lawmakers and the public.
- One of the biggest false claims being made is that PLAs only allow bids by unionized contractors.
- That is simply untrue.
- PLAs do not require non-union contractors to become unionized.
- Nor do PLAs require recognition of a union as a condition of an acceptable bid.

- In fact, PLAs contain specific language prohibiting discrimination against non-union members.
- PLAs simply require all employers, union and nonunion, to play by the same rules for the duration of the project.
- PLA opponents also claim that the agreements drive up costs, but that argument is not supported by the facts.
- Dale Belman, Ph.D., professor of Michigan State University's School of Labor & Industrial Relations, co-authored a national academic study in 2007 that examined the effects of PLAs.
- Belman discovered the following facts:
 - One, PLAs do not increase a project's long-term cost.
 - Two, stakeholders have a high level of satisfaction with PLAs.
 - Three, PLAs improve scheduling, safety and training.
 - And four, PLAs lead to a higher-quality finished product, which is critical for publicly funded projects.
- The study concluded that PLAs are "valuable tools for the construction industry because they can be used to create the conditions needed for a superior construction project."
- These are the facts.
- The real reason many contractors refuse to bid on projects that use PLAs is because they don't want to be held accountable for their work.

- They don't want to provide local workers decent wages and benefits so they can support their families.
- They don't want to buy the necessary safety equipment to keep workers out of the emergency rooms.
- And they don't want to provide guarantees that they'll only hire legal citizens.
- Taxpayers' investments should be protected from the shoddy work of predatory contractors who low-ball more experienced contractors, only to incur hidden costs on the back end.
- Taxpayers' investments should not promote a "race to the bottom" which hurts the living standards of decent, honest and hard working American families.
- PLAs help ensure these protections on behalf of taxpayers.
- I've told you the facts about what PLAs are and aren't.
- Now let me tell about the law. As a lawyer involved in this issue for many years, I can say that the courts would likely find House Bill 4287 to be preempted by federal labor law and therefore unconstitutional.
- That's because PLAs are specifically permitted under federal labor law.
- State and federal courts have long held that when states attempt to regulate in areas protected by federal labor law, the state action is preempted by federal law.

- The U.S. Supreme Court, in its 1993 Boston Harbor decision, held that states can neither require nor prohibit PLAs across the board.
- The court held that states may lawfully consider using PLAs on a case-by-case basis as a business decision, just as state and local units of government, as well as private owners in Michigan have always done.
- Following this rationale, the Ohio Supreme Court in 2003 struck down as preempted an Ohio law similar to the present bill, which flatly prohibited PLAs in the public sector.
- So as you can see, this divisive and unconstitutional legislation only serves one purpose:
- To drive a wedge between us at a time when Michigan residents must all work together to solve our state's economic problems.
- At a time when Michigan's economy is struggling, we must strengthen partnerships between business and labor, and cooperate toward our common goals.
- If passed and signed into law, House Bill 4287 would have the opposite effect, creating more legal and political acrimony when Michigan can least afford it.
- Instead of wasting time and resources on divisive legislation, let's work together on the real issues facing Michigan, like turning the economy around, creating jobs and balancing the budget.
- Thank you.